

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

NOV 14 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

ALLYN CLEVINGER,

Plaintiff - Appellant,

v.

INTEL CORPORATION, a California
corporation,

Defendant - Appellee.

No. 05-17238

D.C. No. CV-03-02564-RGS

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Arizona
Roger G. Strand, District Judge, Presiding

Submitted November 9, 2007^{**}
San Francisco, California

Before: THOMAS, TALLMAN, and IKUTA, Circuit Judges.

Clevinger fails to demonstrate that she has a record of a disability within the meaning of 42 U.S.C. § 12102(2) because her depression did not substantially limit her in a major life activity. See Coons v. Sec'y of U.S. Dept. of Treasury, 383 F.3d

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

879, 886 (9th Cir. 2004). A temporary cancer-related psychological impairment that required a leave of absence for approximately four months is not of “sufficient duration” to qualify as a disability. See Sanders v. Arneson Prods., Inc., 91 F.3d 1351, 1354 (9th Cir. 1996); see also 29 C.F.R. pt. 1630 app. § 1630.2(j) (“[t]emporary, non-chronic impairments of short duration, with little or no long term or permanent impact, are usually not disabilities.”). Clevinger’s depression was temporary and resulted in her absence from work for approximately eight weeks. In her deposition, Clevinger stated that from June 2003 onwards she did not suffer from depression and that medicine excellently controlled her symptoms. Therefore, she does not qualify as a member of the ADA’s protected class.

AFFIRMED.